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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,209	07/12/2000	BRAD NEILSON	11941	8945
6123 7590 03/07/2008 JAMES EARL LOWE, JR. 15417 W NATIONAL AVE # 300 NEW BERLIN, WI 53151				
EXAMINER				
MARSH, STEVEN M				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
03/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/600,209

Applicant(s)

NEILSON, BRAD

Examiner

STEVEN M. MARSH

Art Unit

3632

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is the fourth office action for U.S. Application 09/600,209 for a Material Support Stand filed by Brad Neilson on July 12, 2000. Claims 4-9, 11, and 13 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,007,841 to Seipel. Seipel discloses an equipment support stand that can be used on an underground mining machine adjacent to an apparatus. The stand has a base (13, 14) adapted to stand on the surface of a machine, and an upstanding rack (10) shaped and configured to hold or support items, mounted to the base. There is a plurality of clamps (34', 35') for releasably securing the base to the surface, the clamps having a hook formation (formed by the lower end of 35' in conjunction with 34') adapted to pass through an aperture in the surface of a machine and hook beneath the surface to rigidly fix the stand to the surface. The upstanding rack has a frame with arms (22) projecting laterally therefrom to at least one side thereof, wherein items can be held in position by the arms. At least a pair of arms is aligned generally side by side with each other and defining a space there

between in which items can be located and the stand is adapted to be coupled back to back with another stand to provide for double storage capacity with access from at least two sides. There are pegs (23) projecting upwardly at an inclined angle to the horizontal, the pegs being adapted to support annular items or items that have holes or bores there through. The hook formation is tensionable by an over center locking lever (37) connected thereto which, when tensioned, will tightly clamp the stand to the surface. Claims 4-9, 11, and 13 contain limitations to the mining machine, apparatus on the mining machine, and the interchangeable items. However, those features are not positively recited in the claims and therefore carry no patentable significance.

Allowable Subject Matter

Claim 13 is allowed.

Response to Arguments

Applicant's arguments filed December 11, 2007 have been fully considered but they are not persuasive with respect to claims 4-9 and 11. Applicant's argument rely on the hook with respect to the aperture of the machine. However, the machine is not positively recited in the claim. The hook need only be capable of performing the function on any machine to meet the limitation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone

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number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-8300.

/S. M. M./

Examiner, Art Unit 3632

Steven M. Marsh

February 27, 2008

/Korie H. Chan/
Korie H. Chan
Primary Examiner
Art Unit 3632